

Kentucky Environmental Quality Commission

Follow-up Resolution on the Oct. 11 Coal Slurry Spill

Whereas, The Environmental Quality Commission held a public meeting on November 28, 2000 to review the Oct. 11 Martin County Coal impoundment failure which resulted in the spill of 250 million gallons of slurry/water mixture into Coldwater Fork and Wolf Creek before making its way into Tug Fork, and

Whereas, representatives from A.T. Massey, the Ky. Department of Surface Mining, the Ky. Department of Environmental Protection, the U.S. Environmental Protection Agency, and the U.S. Mine Safety and Health Administration participated in the meeting to discuss the cause of the spill, response and cleanup, and efforts underway to assess the safety of other coal waste impoundments in Kentucky, and

Whereas, all participants expressed commitment to the cleanup and remediation of the impacted area, and

Whereas, all participants acknowledged that much more remains to be done to determine the cause of the failure, assess the impacts of the spill, remediate the site, and analyze the safety of other coal waste impoundments, and

Whereas, EQC recognizes that Governor Patton, Secretary James E. Bickford and various state agencies have worked diligently to address the spill and assess the safety of other surface impoundments and offers the below recommendations to support and continue to build upon current initiatives underway.

Now be it resolved by the Environmental Quality Commission:

1. That the state work with the unified command and the U.S. Environmental Protection Agency to **require a long-term restoration plan** as part of the federal agreed order to include the following key provisions:
 - a. The U.S. Environmental Protection Agency require the development of a long-term ecosystem restoration plan to include measures necessary to monitor and remediate the spill area and restore the ecological integrity of the impacted waterways.
 - b. The U.S. Environmental Protection Agency provide opportunities for public comment and input on the draft plan.
 - c. The U.S. Environmental Protection Agency consider appointing an oversight board composed of federal and state officials and establishing a public advisory committee to monitor the implementation of the restoration plan and activities.
2. That the state **continue its efforts to address the short-term cleanup** of the coal slurry spill including:

- a. Establish a coordinated state/federal agreement with definitive measures to ensure the proper and adequate cleanup of Wolf Creek, Cold Water Fork, and other impaired waterways.
 - b. Conduct continuous monitoring of impacted public water supplies until such time it can be demonstrated that the spill no longer will impair source water.
 - c. Ensure the replacement or renovation of private water wells, septic systems and other infrastructure impacted by the spill and cleanup activities where it can be so demonstrated and/or encourage the use of Supplemental Environmental Projects which may include expansion of wastewater or drinking water infrastructure in Martin County and other impacted areas.
 - d. Encourage Martin County Coal Company to continue to hold monthly briefings/meetings as needed to update the public on the status of the cleanup.
3. That the state continue its efforts to **address the safety of other coal waste impoundments** including:
- a. Continue to seek the timely investigation of what caused the Oct. 11 failure of the Martin County Coal impoundment.
 - b. The Department of Surface Mining and Reclamation conduct an assessment of its permitting program to ensure no high and moderate hazard coal waste impoundments or modifications of existing impoundments be permitted.
 - c. Evacuation/notification plans be prepared and/or updated for all surface impoundments classified as high to moderate hazard and local authorities be provided copies of these plans.
 - d. The state continue its timely review of existing coal waste impoundments and close/reclaim impoundments where it has been determined there is a high to moderate hazard of dam failure or breakthrough.
 - e. Initiatives be pursued to phase-out coal waste impoundments and implement dry coal processing or other appropriate technology through the use of financial and regulatory incentives and other means.
4. That this disaster has imposed a financial drain on the Natural Resources and Environmental Protection Cabinet's resources and that steps be taken as soon as possible to seek **full recovery of the Cabinet's and other agencies costs** from Martin County Coal Company. In the meantime, the **state provide supplemental funds as needed to ensure adequate resources are available to the Natural Resources and Environmental Protection Cabinet** to continue to oversee the cleanup of the spill while ensuring adequate resources to carry out the provisions of state environmental laws and regulations.
5. The resolution be forwarded to Gov. Paul E. Patton and Secretary James E. Bickford for their consideration and action.

Approved this 18th of January 2001 by members present and voting.

Aloma Dew, Chair

Bob Riddle

Betsy Bennett, Vice Chair

Gary Revlett

Patty Wallace

Serena Williams

C.V. Bennett, III